

establish that the districts drawn by the 88th Legislature render the voting process ‘not equally open to participation by members of a class of [protected] citizens.’”³ The plaintiffs resist this conclusion, asserting that coalition districts are cognizable under Section 2 of the VRA. *See* ECF Nos. 788 at 9–19, 789 at 3–4.

Since the parties submitted their briefing, the en banc Fifth Circuit decided *Petteway v. Galveston County*, holding that “Section 2 . . . does not authorize separately protected minority groups to aggregate their populations for purposes of a vote dilution claim.” 111 F.4th 596, 603 (5th Cir. 2024).

Given the manifest influence of *Petteway* on our resolution of Texas’s motions, the parties are directed to submit letter briefs, not to exceed eight pages, addressing the applicability of No. 23-40582, *Petteway v. Galveston Cnty.*, 111 F.4th 596 (5th Cir. 2024). The letter briefs are due at noon on October 15, 2024. Each side is permitted, but not required, to submit a reply letter, not to exceed four pages, by noon on October 21, 2024.

So ORDERED and SIGNED this 30 day of September 2024.



JERRY E. SMITH
UNITED STATES CIRCUIT JUDGE

And on behalf of:

Jeffrey V. Brown
United States District Judge
Southern District of Texas

-and-

David C. Guaderrama
United States District Judge
Western District of Texas

³ ECF No. 779 at 1 (quoting 52 U.S.C. § 10301(b)) (alteration in original); *see* ECF No. 785 at 1.

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